

Social Security on Heart Attack as a Work Accident Review of Law Number 13 of 2003 Concerning Labor (Case Study on the Decision of the Jakarta State Administrative Court: Number 169/G/2019/Ptun-Jkt)

Gunardi Gunardi^{1,*}, Maria Angela Triwidayarti¹

¹Faculty of Law, Universitas Tarumanagara, Jakarta, Indonesia

*Corresponding author. Email: gunardi@fh.untar.ac.id

ABSTRACT

This study discusses social security for heart attacks as work accidents in terms of Law Number 13 of 2003 concerning Employment. This study uses a normative legal research method with a descriptive research nature. From this research, there are problems regarding social security for work accidents and the risk of heart attack as a work accident based on law number 13 of 2003 concerning employment. Employment issues are still crucial issues and are of concern to various parties. The state of Indonesia as a state of law of course all applicable provisions relating to laws and regulations. The most highlighted is about social security. Social security is the right of every citizen which is the responsibility of the state. Social security is a right for every citizen, especially BPJS Ketenagakerjaan participants. Everyone who has a work accident has the right to get a Work Accident Insurance (JKK). That everyone without exception and without discrimination has the right to get social security as determined by the applicable law. Social security is from citizens.

Keywords: Social Security, Work Accident, Heart Attack

1. INTRODUCTION

Indonesia is a state of law. This is also based on the Constitution of the Republic of Indonesia Article 1 paragraph (3) of the amendments which states that "the State of Indonesia is a State of Law". The role of law in the life of the Indonesian people as something that can protect and provide a sense of security and order so as to achieve a peaceful and just social life for every color of the country. Everyone will certainly try to fulfill their needs by making various efforts in order to survive and have a decent life, one of which is by working. Every individual certainly wants a decent life even by doing various risky jobs. Therefore, the state is present as a protector and guarantor of the rights of every individual and guarantees every citizen's freedom to have a job.

Employment problems are very actual problems and require the government's attention at this time.[1] This is clearly stated in Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "every citizen has the right to work and a decent living for humanity". Furthermore, Article 34 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that: "The state develops a social security system for all people and

empowers the weak and incapable in accordance with human dignity".

So that in the implementation of state life, to achieve a just, peaceful and prosperous state life, the state makes policies that regulate social security for its citizens. Law Number 40 of 2004 concerning the National Social Security System (SJSN) broadly states that there are 5 (five) types of social security that are regulated, namely as follows[2]; Social Security for Health, Social Security for Pensions, Social Security for Old Age, Social Security for Work Accidents and Social Security for Death. Nationally administered social security based on the principle of social insurance and the principle of equity which is mandatory for everyone who is a resident of Indonesia, including foreigners who have worked for at least 6 months in Indonesia and have regularly paid BPJS Ketenagakerjaan contributions. [3] Law Number 40 of 2004 concerning the National Social Security System in Article 19 states that health insurance is administered nationally based on the principle of social insurance and the principle of equity which aims to ensure that each participant obtains health care benefits and protection in meeting basic health needs. Pension and Old Age Social Security is held nationally with the aim of ensuring that each participant receives cash when entering

retirement, experiencing permanent total disability or death, this is also stated in Article 37 of Law Number 40 of 2004 concerning the National Social Security System.

Then there is the death social security is one of the most important and mandatory social security for every worker. According to Government Regulation Number 44 of 2015 concerning the Implementation of the Work Accident Insurance and Death Benefit Program, the death benefit is a cash benefit given to the heirs of the deceased worker.

Work Accident Social Security is intended for people who experience work accidents which in this case can protect the workforce. Manpower is one of the steps of economic development, which has a significant role in all national activities, especially the national economy in terms of increasing productivity and welfare. Abundant labor as a driving force for economic life and is an abundant resource. According to Law Number 13 of 2003 concerning Manpower Article 1 paragraph (3), labor is anyone who is able to do work to produce goods or services both to meet their own needs and for the community. Good social security is a social security that is organized systematically based on the provisions set by the state. Article 86 paragraph (1) of Law Number 13 of 2003 concerning Manpower states that every worker/ laborer has the right to obtain protection for:

- 1) Occupational safety and health;
- 2) Morals and decency; and
- 3) Treatment in accordance with human dignity and values as well as religious values.

A work accident can also be defined as an unwanted and unexpected event that causes human or property casualties. In Law Number 40 of 2004 concerning the National Social Security System Article 1 number 14 states that: "*Work accidents are accidents that occur in an employment relationship, including accidents that occur on the way from home to work or vice versa, and diseases caused by the work environment.*"

However, in practice there are still many workers who do not get their rights in accordance with what is stated in the law. As one example is the accident experienced by Alm. Hari Agung Pratama employees of PT. Mandiri Bangun Makmur Jakarta registered as a BPJS Employment participant who on January 27, 2018 had a work accident on the way to the work location. PT. Mandiri Bangun Makmur Jakarta and has a position as Engineering Finishing Work at PT. Mandiri Build Prosperity Jakarta. The person concerned on January 27, 2018 went to the Jakarta Tower project work site as one of the projects of the Agung Sedayu Group which is located in the Kemayoran area of Central Jakarta with the aim of fulfilling a call from the company but on the way to the project location the person in question had an accident and was found lying on the ground. near the project site. After being taken to the Hermina Kemayoran Hospital, the late. Hari Agung Pratama was declared dead and the cause of death was Apnea + Arrest (heart attack).

Knowing this PT. Mandiri Bangun Makmur made a phase I and phase II accident report to the BPJS Employment at the Mangga Dua branch office on Jl. Mangga Dua Raya Ruko komp. Orion Dusit No. 7 After submitting a phase I and

phase II accident report by the Manpower Supervisory Agency, the Jakarta Air Administration and Manpower Sub-dept. Determine the case of the late. Hari Agung Pratama as a work accident through the Letter of Determination of the Manpower Superintendent of the North Jakarta Administrative City Office of Manpower and Transmigration Number: 274/2018 concerning Determination of Work Accidents or Non-Work Accidents in the name of Hari Agung Pratama.

However, this is in contrast to the Decree of the Minister of Manpower of the Republic of Indonesia Number 145/NAKER-BINWASK3/V/2019 concerning Determination of Non-Work Accidents and Non-Occupational Diseases a.n. late. Pratama Great Day Employees of PT. Mandiri Build Prosperity Jakarta. Based on the Ministerial Decree, it was stated that the accident experienced by Alm. Hari Agung Pratama was not a work accident because it didn't meet the mandatory elements (there were no abrasions and bruises on the victim's body), the person concerned died of a heart attack.

Based on the description above, the authors are interested in studying further in the research with the title: "Social Security for Heart Attacks as Work Accidents Judging from Law Number 13 of 2003 concerning Employment.

1.1. Problems

Based on the background described above, the problems that will be discussed in writing this thesis are what is the risk of a heart attack as a work accident according to Law Number 13 of 2003 concerning Employment?

1.2. Method

Peter Mahmud stated that legal research is finding the truth of coherence, namely whether there are legal rules that are in accordance with legal norms and are there norms in the form of orders or prohibitions that are in accordance with legal principles, and whether a person's actions are in accordance with legal norms (not legal norms).[4]The research method in writing scientific papers is an inseparable part because through the research method it will provide clear directions for researchers in digging up information, obtaining data, and describing the research plan. The method used in this research is normative legal research with analytical descriptive research. The type of data used is secondary data which is divided into primary legal materials, secondary legal materials, and tertiary legal materials. This study focuses on data collection techniques with library research and data processing techniques by selecting secondary data by grouping certain data groups. The approach used is a case approach and a statutory approach and the data analysis technique used is deductive logic.

2. ANALYSIS

Occupational health and safety cannot be denied that it has become an important part of the economy in Indonesia, both macro and micro economics. In every order of human life there will be the possibility of accidents, including in the field of work.[5] So that every party who has an interest as much as possible to avoid risks that result in accidents or work accidents. Article 28D paragraph (2) of the 1945 Constitution states that:

"Everyone has the right to work and receive fair and proper remuneration and treatment in an employment relationship" The above statement shows that the state gives freedom to every worker to work and get remuneration in accordance with the work he does, and workers have the right not to be discriminated against in any form.[7] Safety and health are an inseparable part of employment. Every worker must pay attention to every element of safety and health at work. However, often unexpected events such as accidents are experienced by workers. This is of course an unwanted event. Accidents are certainly not something that anyone wants. If you look at the definition of accident itself, it is clear that an accident is an unwanted or unplanned event or event that can result in both material loss and loss of life.

In the Decree of the Minister of Manpower of the Republic of Indonesia Number KEP 145/NAKER-BINWASK3/V/2019 concerning Determination of Non-Work Accidents and Non-Occupational Diseases a.n. Late. Hari Agung Pratama employees of PT. Mandiri Bangun Makmur Jakarta[8], it was stated that the accident that caused the death of Hari Agung Pratama was not a work accident, so that the heirs of the workers who died, in this case the legal wife of Hari Agung Pratama, namely Linda Lilianingsih, lost their rights as heirs and lost their rights to get social security benefits which is a program implemented by BPJS Ketenagakerjaan. Whereas as a participant of BPJS Employment, if Hari Agung Pratama experiences a work accident, he is entitled to benefit from social security from BPJS Employment, one of which is work accident insurance. However, with the existence of KEP.145 issued by the Ministry of Manpower, the heirs of workers do not get their rights in accordance with applicable regulations. That it is proper for the heirs of the workers to get the social security benefits, because in this case the workers have routinely paid BPJS employment contributions.

In this case, the heirs of Hari Agung Pratama do not get justice and do not get protection for their rights in accordance with Law Number 13 of 2003 concerning Manpower in Article 86 paragraph (1) which states that every worker or his heirs are entitled to receive legal protection, and do not get their rights as regulated in the 1945 Constitution of the Republic of Indonesia Article 24H which states that "everyone has the right to social security that allows his full self-development as a dignified human being". And based on Article 99 paragraph (1) which states that every worker has the right to get social security. In addition, the Ministerial Decree contradicts Article 1 number 14 of Law Number 40 of 2004 concerning the National Social Security System which states that a work

accident is an accident that occurs in an employment relationship either on the way to work from home or vice versa. workplace and home and occupational diseases. That in this case, if we look at the notion of an accident, which is an unwanted or unplanned event that results in material loss or loss of life. In this case, the heart attack experienced by Hari Agung Pratama was declared a work accident because the accident had fulfilled the elements stated in Article 1 number 14 of the SJSN Law, namely the accident occurred in an employment relationship, namely on the way to work and was found near the location where the person was assigned. concerned work.

According to the author, the death of Hari Agung Pratama who was diagnosed with a heart attack was an unwanted and unplanned accident, causing a person to die. The accident experienced by Hari Agung Pratama can be categorized as a work accident, because it occurs in an employment relationship and meets the elements to be declared a work accident, namely when viewed from Article 1 number 14 of the SJSN Law which states that "a work accident is an accident that occurs in an employment relationship, including accidents that occur on the way to work or vice versa and diseases caused by the work environment ", based on the contents of the article above, it can be said that the death of Hari Agung Pratama who was diagnosed with a heart attack can be said to be a work accident, because it fulfills the element of "accidents that occur in the work relationship" namely the accident experienced by the person concerned occurred during the Great Pratama Day leaving for the location where he worked through the road that the person concerned should normally pass when leaving for work.

According to the author, the determination of not a heart attack carried out by BPJS Employment or the determination made by the Ministry of Manpower is not in accordance with applicable regulations, thus causing injustice to the heirs of the deceased worker in addition to his rights as a citizen who is entitled to guarantees. social welfare, this is also the right of the heirs as participants of BPJS Employment. Justice is something that must be accepted and obtained by every individual so as to create a condition or order of peaceful and peaceful social life so that there are no disputes or differences and or conflicts of interest, both between fellow citizens and between community members and the government or others country.

3. CONCLUSION

Whereas Law Number 13 of 2003 concerning Manpower Article 99 paragraph (1) states that every worker/ laborer and his family has the right to obtain labor social security. And Article 29 paragraph (2) of Law Number 40 of 2004 concerning the National Social Security System states that work accident insurance aims to ensure that participants receive health care benefits and cash compensation if a worker has a work accident. So that workers who die in a heart attack should get their rights as they should.

REFERENCES

- [1] Rahardjo, Irvan. 2012. *Politik Asuransi Indonesia:Liku-Liku Kebijakan Industri Asuransi Nasional*. Jakarta : Gagas Binsis Indonesia.
- [2] Indonesia. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*.
- [3]Syahganda Nainggolan. 2017. *Kebijakan Ketenagakerjaan dalam Perspektif Kesejahteraan*. Malang:Inteligensia Intrans Publishing.
- [4] Marzuki, Peter Mahmud. 2017. *Penelitian Hukum*. Cet. 13. Jakarta: Kencana Prenada Media Group.
- [5] Roberia. 2019. *Hukum Jaminan Kesehatan:Solusi Konstitusional Mengatasi Defisit Dalam Mewujudkan Negara Kesejahteraan Pancasila*. Bekasi:Gramata Publishing.
- [6] Mohd.Yani, Mukhlis, Malahayati. *Tanggung Jawab Perlindungan Hukum Bagi Tenaga Kerja Yang Mengalami Kecelakaan Tidak Terdaftar BPJS*. Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh. vol.7. No.2. edisi April.2019.
- [7] Syahganda Nainggolan. *Kebijakan Ketenagakerjaan Dalam Perspektif Kesejahteraan*. Malang:Intelegensia Intrans Publishing.
- [8] Putusan Pengadilan Tata Usaha Negara Nomor 169/G/2019/PTUN-JKT.Tertanggal 09 Januari 2020;